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REMOVAL OF CAUSES—EMINENT DOMAIN.—MADISONVILLE TRACTION CO. v. ST. BERNARD MINING CO., 25 SUP. CT. 251.—*Held*, that an eminent domain proceeding under a state statute, to be begun in a state court, is a suit of which the Federal circuit court has original jurisdiction, where the requisite diversity of citizenship exists, and is therefore removable to that court, when begun in a state court. Fuller, C. J., Brewer, Peckham, and Holmes, JJ., *dissenting*.

Foster, 2 Fed. Prac., 810, states the rule that the initial proceeding in eminent domain for appraisement by commissioners is administrative in its nature, and therefore not removable; but where an appeal has been taken to a court it becomes a suit, removable as such. *Boom Co. v. Paterson*, 98 U. S. 406; *U. P. R. Co. v. Myers*, 115 U. S. 19. A petition to railroad commissioners for consent to proceed to condemn land is not a suit and is not removable. *N. Y., etc., R. Co. v. Cockcroft*, 46 Fed. 881. But where the proceeding was originally instituted in a court and conducted as a suit, the federal courts have held it removable. *Postal Tel. Co. v. Ry. Co.*, 88 Fed. 803; *Sugar Creek Co. v. McRell*, 75 Fed. 34. *Mandamus* proceedings are not removable, except as they are merely ancillary. *Rosenbaum v. Baner*, 120 U. S. 450. *State of Ind. v. R. Co.*, 85 Fed. 1; see *contra*, *People v. R. Co.*, 42 Fed. 638. *Habeas corpus* suits are not removable, as not involving a money value. *Kurtz v. Moffit*, 115 U. S. 458. But *quo warranto* is removable. *Ames v. Kansas*, 111 U. S. 449.

TRIAL—INSTRUCTIONS TO JURY—PRESUMPTIONS.—JOHNSON v. STATE, 83 S. E. 651 (ARK.).—*Held*, that where the instructions are not set out in the bill of exceptions, it being only stated that no objection was made to them, the court on appeal will presume that they were correct.

Instructions are presumed to have been correctly given to the jury by the trial court on all questions arising in the case, if the record does not affirmatively show them to have been erroneous. *Linton v. Allen*, 154 Mass. 432; *Vasburgh v. Teator*, 32 N. Y. 561. And if the record contains no instructions, it will be presumed that instructions were given, covering every branch of the case. *Richardson v. Eureka*, 96 Cal. 443. When court's instructions relate to a matter not pleaded, and to which there is no evidence, it will be presumed that the jury made no findings on this point, and that the instructions were therefore without prejudice. *Eckelmid v. Talbot*, 80 Iowa 571. The entire charge is presumed correct when not excepted to in the trial court. *Khrow v. Brock*, 144 Mass. 516; *Kennedy v. Anderson*, 98 Ind. 151. The court will not presume that a palpably erroneous instruction appearing on the record was a mere mistake of the clerk who made the transcript. *Stott v. Smith*, 70 Ind. 298. If an instruction is capable of two interpretations and no objection is made to it in the trial court, it will be presumed to have been based upon the theory which would make it correct. *Siebert v. Leonard*, 21 Minn. 442; *Erd v. St. Paul*, 22 Minn. 443. The bill of exceptions should show all the instructions on a given subject when a part is alleged to be incorrect. *Oregon R. etc., v. Galliher*, 2 Wash. Ter. 70.

TRIAL—RECEPTION OF VERDICT.—MORRIS v. HASBURGER, 91 N. Y. SUPP. 409.—*Held*, that a judgment entered on a verdict received by the clerk, even under the direction of the court, without objection of the parties being interposed to such reception of the verdict, is void. Van Brunt, P. J., *dissenting*.